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Nineteenth-Century Women's Rights Advocates on
Abortion: Comment on Tracy Thomas's
*Misappropriating Women's History in the
Law and Politics of Abortion*

Linda Gordon *

I am delighted that Tracy Thomas took on the task of responding to Feminists for Life's allegedly historical case against abortion¹ and delighted with the article she produced. My pleasure is personal because, as Professor Thomas knows, I am the historian whose work first brought to light the reproduction-control thinking of nineteenth-century women's rights advocates, which underlies the antiabortionists' historical misrepresentations.² Although I have nothing but praise for Thomas's superb article, I am taking advantage of this invitation to respond by adding a few thoughts.

I want to emphasize a point that Thomas made: The crucial factor in the nineteenth-century feminists'³ view of reproduction control was their concern about female sexual vulnerability.⁴ In home and on the streets, in marriage and out of it, in domestic and commercial workplaces, everywhere they saw that women had very few defenses against rape and harassment.⁵ What's more, they understood that women's economic dependence on men underlay their sexual defenselessness.⁶ Within marriage, even well-to-do women were typically unable to leave even the most abusive husbands because, if they did so, they were likely to lose

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1. See Tracy A. Thomas, *Misappropriating Women's History in the Law and Politics of Abortion*, 36 SEATTLE U. L. REV. 1 (2012).

2. LINDA GORDON, *WOMAN'S BODY, WOMAN'S RIGHT: A SOCIAL HISTORY OF BIRTH CONTROL IN AMERICA* (1976). In 2002 this book was revised so extensively that it was given a new title: *The Moral Property of Women*.

3. It is important to note that these nineteenth-century radicals did not call themselves feminists. That word did not yet exist. I apply the label, as do other scholars, in order to underscore their continuity with contemporary feminists.

4. See Thomas, *supra* note 1, at 27–30.

5. See *id.* at 42–53 (discussing Stanton's defense of Hester Vaughn).

6. *Id.* at 61.

custody of their children, a fate which very few women would risk.⁷ Poorer wives found it virtually impossible to raise children without husbands because of their limited employment options. As late as the year 1900, the majority of children in orphan asylums were not without living parents; they were children of single mothers who could not find a way to simultaneously support and care for their children and were thereby forced to place their children in orphanages. (Most hoped to reclaim their children at some point, but many were never able to do so.)⁸ Employed women often could not risk refusing the demands of supervisors, whether they were factory foremen or the men in the families in which the women were servants.

Women's economic dependence was also at the heart of the feminist attitude toward seduction law.⁹ Because marriage was economically essential to women, they saw that a promise of marriage could reasonably lead a woman into sexual surrender to a treacherous man, thus making seduction a *prima facie* form of abuse.

It's true that nineteenth-century women's rights advocates shared some of the Victorian prudery of their age. Certainly they believed that women should remain virgins before marriage. But more importantly, they saw the risk of pregnancy as a defensive weapon for women.¹⁰ Without that risk, what could stop men from abuse? (It is worth noting that at least until the mid-twentieth century this logic was commonly used by women against men's sexual pressure.) Their opposition to easy forms of reproduction control—including both what we call contraception and abortion—reflected that notion of pregnancy risk as a deterrent to male sexual exploitation. For preventing conception, they preferred to hammer away at men's sense of sexual entitlement. Hence they advocated "voluntary motherhood," as Thomas makes clear.¹¹ To women today, the nineteenth-century feminist prescription for prevention of conception—abstinence except when conception is desired—seems impracticable. It makes sense only when one remembers that their priority was women's right to say no to men.

Still, in their emphasis on this right, some of the more radical women's rights advocates—notably Elizabeth Cady Stanton—were also making a distinctly anti-Victorian move: they understood, I believe, that it would be forever impossible for women to say yes to sex unless they had

7. *See id.* at 5.

8. LINDA GORDON, *PITIED BUT NOT ENTITLED: SINGLE MOTHERS AND THE ORIGINS OF WELFARE* (1994).

9. *See* Thomas, *supra* note 1, at 43–44 (discussing seduction law in the context of Stanton's defense of Hester Vaughn).

10. *Id.* at 28 n.192.

11. *Id.* at 27–30.

the actual right to say no. Without the ability to say no, there is no such thing as acquiescence.

But after conception occurred, the story changed. Most nineteenth-century feminists were intensely *pro*-motherhood and used the importance of good mothering as a prime reason that women needed civil and political rights. Nevertheless, many of them clung to the traditional tolerance of abortion before quickening—a tolerance practiced across the world in all religions, to the best of my knowledge—as a reasonable, legitimate action when having a child, or another child, created significant problems. As numerous historians have shown, abortions routinely appear in women's diaries as regrettable but necessary and legitimate solutions to such problems.

The nineteenth-century feminists, true to their primary concern for women, focused on situations in which women needed abortions because of male sexual exploitation, and they continued to regard abortion as an often-regrettable necessity. Unlike Thomas, I don't see this attitude as having to do with a right to privacy.¹² Most women of the mid-nineteenth century did not have a developed or articulated sense of a right to privacy. For example, few women ever had beds, let alone bedrooms, of their own, but more often shared beds with siblings, then husbands, then babies. Strong familial bonds, across generations, meant that interventions by others in their immediate community did not appear as interference into a private matter. Moreover the emphasis on marital privacy, as formulated in the *Goldberg* decision, would not have reverberated with many women of the Victorian era who did not typically expect their husbands to be their closest friends or confidants.

Rather, I think the nineteenth-century feminist belief in voluntary motherhood was influenced by the women's rights movement's origins in the fight against slavery. The first three generations of feminists were all abolitionists, and they campaigned against slavery particularly by invoking narratives about the cruel treatment and sexual abuse of slave women. Later they began analogizing white women's to enslaved women's lack of rights. So the right to voluntary motherhood was to them a right to live as a freewoman, not as a slave. Freedom of the individual was, for example, Elizabeth Cady Stanton's most absolute ethical principle. It is worth noting that when contemporary antiabortionists refer to female narcissism or selfishness, they are repeating exactly the ideas of their counterparts of 150 years ago: that women have no right to this kind of freedom because their duty is always and eternally motherhood and that to defy that duty is self-indulgent and self-centered; the duty of

12. *Id.* at 30.

women is, in other words, to sacrifice themselves always to motherhood. So when Stanton and some of her cohort argued that mercy should be extended to the mother who committed infanticide on an unwanted baby,¹³ this argument was a logical extension of Stanton's absolutist defense of freedom from male coercion. She never encouraged infanticide or abortion, any more than contemporary feminists do; like feminists today, she encouraged prevention. But when prevention failed, then a woman had a right to defend herself, she believed. I would like to think that even today, most of us would agree that even infanticide usually reflects a woman's (or girl's) desperation, and that mercy and help, not prosecution, is the better response.

As to the dubious quotation from Stanton that children should not be treated as property,¹⁴ she might well have said this. But Thomas is absolutely correct that she would not have been referring to abortion but rather to custody disputes.¹⁵ All the women's rights advocates of the time were fighting the tradition of male authority over and ownership of children, and to make this case, they initiated the now familiar argument that the best interests of the child should overrule automatic male custody. In other words, they did not argue to substitute female for male ownership; rather, they argued to discard entirely the tradition that parents "owned" their children.

Another way in which the nineteenth-century antiabortion campaign resembles that of today is its impact on women's emotions. Before the first campaign, for millennia, women's typical response to successful abortions was not guilt but relief; it was the massive medical and religious anti-abortion discourse that created guilt. The second campaign did likewise. In the twentieth-century right through the 1960s, there is no evidence that women typically felt guilty for having abortions; after the massive antiabortion campaign that the women's movement provoked, even pro-choice women began to experience sadness and guilt after abortions. I do not challenge the realness of these emotions, but I do believe that they have been socially constructed by the "abortion-is-murder" discourse.

I've never had the occasion to discuss these issues at length with Feminists for Life, but it is something I would like to do. Given that absence, I would hypothesize two things about their point of view: either they are not really feminists, failing to trust women to make decisions responsibly, or they haven't examined the actual conditions for women in the nineteenth century.

13. *Id.* at 44.

14. *Id.* at 36.

15. *Id.* at 36-37.

I would like to underscore another misuse of history. Although it is outside the scope of Thomas's article, it is also a matter personal to me: the claim by some antiabortion campaigners that abortion—and, often, all birth control—is racist. Readers may have seen the billboards in black and Latina/o neighborhoods picturing babies or toddlers with the texts, “The most dangerous place for an African American baby is in the womb” and “*El lugar mas peligroso para un latino [sic] es el vientre de su madre.*” This charge also uses my book on the history of birth-control politics as the source, because I was the historian who exposed the cooperation between the birth-control and eugenics movements in the early twentieth century. But in the hands of antiabortion/anti-birth control advocates, this claim too is a nasty misrepresentation. Like most white Americans, some birth-control campaigners had racist attitudes; most birth-control campaigners, however, were less racist than average whites; and most birth-control campaigners aligned themselves with the progressive Left in American politics.¹⁶ Coercive sterilization, a method never endorsed by the birth controllers, was in fact used by racist elites against poor people of color, until the revived feminist movement of the 1970s campaigned against it. Most important, most civil rights leaders of all racial and ethnic groups supported women's access to birth control—access to voluntary motherhood. They still do.

16. The modern birth-control campaign was begun by Emma Goldman and her anarchist comrades along with Margaret Sanger and her socialist comrades. The Left at this time was by no means free of racism but it was free-er than mainstream America. Birth control was supported by early civil-rights advocates, such as W. E. B. Du Bois. See ROBERT G. WEISBORD, *GENOCIDE? BIRTH CONTROL AND THE BLACK AMERICAN*, ch. 4 (Greenwood Press 1975); GORDON, *supra* note 2.